

REMARKS

This application is amended in a manner to place the application in condition for allowance.

Status of the Claims

Claim 18 is amended to include the features of claims 19 and 20 (as described on specification page 7, lines 10-12) and one of the formals from claim 23. Also, claim 18 was amended in a manner consistent with specification page 9, lines 32-34.

Accordingly, claims 21, 23 and 35 are amended to correspond to the amendment in the independent claim, and claims 19 and 20 are cancelled.

Claims 18, 21-25, 30, 31, 35-48, 57 and 58 are pending.

Claims 22, 24, and 25 were withdrawn from consideration.
(Claim 24 has the correct status identifier.)

Claim Rejections-35 USC §112

Claims 18 and 35 were rejected under 35 U.S.C. §112, second paragraph, for being indefinite. This rejection is respectfully traversed for the reasons below.

Specifically, the ratio was considered indefinite. As acknowledged in the Official Action, specification page 9, lines 32-34 describe the weight ration is (a):(b), where (a) is the at least one formal and (b) is the at least one emission-reducing

additive as discussed on page 7, lines 7-8. Thus, claims 18 and 35 have been amended to clarify the meaning of the ratio in a manner consistent with the suggestion made in the Official Action.

Therefore, the claims are definite and withdrawal of the rejection is respectfully requested.

Claim Rejections-35 USC §103

Claims 18-21, 23,30, 31, 35-48, 57, and 58 were rejected under 35 U.S.C. 103(a) as being unpatentable over BEILFUSS et al. U.S. 2001/0021711 A1 (BEILFUSS) in view of ECANOW et al. US 4,452,780 (ECANOW). This rejection is respectfully traversed.

The claimed preservative of independent claim 18 comprises (a) N,N'-methylenebis(5-methyloxazolidine) (b) urea. However, the preservative does not comprise either The weight ratio of (a): (b) is from about 100:1 to about 10:1 of the preservative. The preservative comprises no iodopropynyl compound, and comprises no derivative of 1H-benzimidazol-2-carbamic acid.

BEILFUSS was offered for teaching bactericidal and fungicidal liquid preparations for industrial products comprising at least one bactericidal N-formal, with N,N'-methylenebis (5-methyloxazolidine) being preferred, and the preparations are free from idopropynyl compounds and derivatives of benzimidazole. The

Official Action acknowledged that BEILFUSS does not disclose urea.

ECANOW was offered for teaching a composition with urea being recognized as a known agent effective against fungus.

The position of the Official Action was that it would have been obvious to add urea to the composition of BEILFUSS.

However, this combination does not teach the claimed composition of N,N'-methylenebis (5-methyloxazolidine) and urea with a weight ratio of N,N'-methylenebis (5-methyloxazolidine) to urea from about 100:1 to about 10:1 of the preservative.

Indeed, the proposed combination of these documents fails to teach or suggest that the combination of N,N'-methylenebis (5-methyloxazolidine) and urea provides a synergistic effect, as demonstrated by the Examples of the present application. In the table of page 17, for example, Gotan OX (i.e., N,N'-methylenebis (5-methyloxazolidine)) is combined with urea has a reduced formaldehyde content both in the gas phase of a water containing preservative and in an anhydrous formulation. As neither document suggests this result, it is an unexpected result.

Thus, independent claim 18 and the dependent claims 21-25, 30, 31, 35-48, 57 and 58 are not rendered obvious, and withdrawal of the rejection is respectfully requested.

Double Patenting Rejection

Claims 18-21, 23, 30, 31, 35-48, 57 and 58 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 18, 20-30, 32-34 and 36-38 of copending Application No. 11/088,428.

This rejection is rendered moot in light of the terminal disclaimer filed with this amendment.

Charge the statutory disclaimer fee of \$140 for the terminal disclaimer filed herewith, to our credit card.

Conclusion

In view of the amendment to the claims and the foregoing remarks, this application is in condition for allowance at the time of the next Official Action. Allowance and passage to issue on that basis is respectfully requested.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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APPENDIX:

The Appendix includes the following item(s):

- a terminal disclaimer